



Appeal Decision

Site visit made on 4 December 2024

by A Veevers BA(Hons) PGDip(BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/Z4310/D/24/3347028

6 Armscot Place, Liverpool L25 0PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Joseph Crawford against the decision of Liverpool City Council.
 - The application Ref is 24H/0490.
 - The development proposed is erection of upwards extension to existing fence to a maximum height of 2.35 metres.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of upwards extension to existing fence to a maximum height of 2.35 metres at 6 Armscot Place, Liverpool L25 0PD in accordance with the terms of application, Ref 24H/0490 and the plans submitted with it, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Ref: 2353JCHOU-01 (Location Plan) and Drawing Ref: 2353JCHOU-02 (Existing and proposed elevations and plan).

Preliminary Matters

2. I have taken the description of development from the application form, omitting the word 'retrospective' as it does not describe an act of development.
3. At the time of my site visit I saw that the fence as described in the banner heading above had been erected. Therefore, planning permission is sought on a retrospective basis and I have determined the appeal accordingly.

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the area; and,
 - the living conditions of neighbouring residents, with particular regard to outlook.

Reasons

Character and appearance

5. Armscot Place is a suburban residential cul-de-sac. The appeal property is a semi-detached dwelling located in the corner of the cu-de-sac. The properties in the immediate area are set back from the street with front gardens and driveways. Rear gardens are generally enclosed by close-boarded fences.

6. Policy UD1 of the Liverpool Local Plan 2013-2023, January 2022 (LLP) is concerned with local character and distinctiveness. The explanatory text to the policy advises that development should be of a high design quality which makes a positive contribution to the character and distinctiveness of its location. However, this wording is not replicated in the policy itself. The policy states that development proposals should demonstrate several aspects have been taken into account, including, amongst other things, the local grain and pattern of development, means and pattern of enclosure, the form, scale, proportion, heights, materials, colours, tones and textures, which should be appropriate to the characteristics of the local area.
7. From the evidence before me, the original rear boundary fence at 6 Armscot Place (No 6) has been extended in height across the full width of the rear garden by attaching horizontal timber boarding to the top of the fence with timber batons. When viewed from the garden of No 6 it is evident that the batons are attached to both parts of the fence in order to stabilise the structure and both parts have been stained the same brown colour.
8. Fencing along the side boundaries of No 6 is lower. Thus, there is an abrupt increase in height from the side boundary fencing to the rear boundary fencing. The rear fence forms the rear boundary with 55 and 57 Hillfoot Avenue (No 55 and No 57). I have been provided with photographs of the fence taken from these neighbouring properties. The additional horizontal fencing is clearly visible when viewed from the gardens and rear windows of these properties, and when viewed from gardens and rear windows of several other residential properties on Hillfoot Avenue and Armscot Place. The evidence indicates the two distinct parts of the fence have not been stained the same colour when viewed from No 55 and No 57.
9. I saw at my site visit that the use of timber is common within the estate, notably in respect of boundary treatments and garden buildings and sheds. High timber fencing is also a familiar sight on several side boundaries fronting Bourton Road. Furthermore, I observed timber trellising on top of fences enclosing the side boundaries of the rear garden at 2 Armscot Place (No 2) along with a high solid timber fence along the rear garden boundary of No 2.
10. Consequently, while the appeal fence results in a varied height and design of boundary treatment across the rear of No 57, and an increased height of enclosure at the rear of No 55, it does not detract from the varied appearance within rear gardens of the estate which comprises a variety of boundary treatments to the individual properties and a variety of structures within gardens.
11. Although many rear garden boundary fences in the immediate vicinity of the site are of a similar height, their colour varies. I observed fences between properties on Hillfoot Avenue that were coloured grey and various shades of brown fences were also visible in the area. Both the original fence and the additional fencing above at No 6 have been stained the same colour which, despite being of different designs, provides a consistent appearance to the structure when viewed from the appeal site and the rear windows and gardens of properties along Armscot Place.
12. Although the appeal fence is a considerable height and length, combined with other boundary features, outbuildings and vegetation at the rear of properties along Hillfoot Avenue and Armscot Place in the locality, the fence is largely screened in views from Bourton Road and between dwellings from Hillfoot Avenue.

Any glimpsed views from surrounding roads are seen against the backdrop of the residential estate and enclosed gardens such that the structure itself does not reduce the open and spacious feel of the wider residential area.

13. I acknowledge that the fence is demonstrably higher than one that would be permissible under permitted development rights. Whilst I accept that the fence is visible when viewed from the rear windows and gardens of neighbouring properties, in the context of other boundary treatment, outbuildings and garden structures in the immediate vicinity, it does not appear a disproportionate, or overly large enclosure and does not visually dominate the area. I therefore conclude on this main issue that the appeal scheme does not adversely harm the character and appearance of the area.
14. Consequently, there would be no conflict with Policy UD1 of the LLP which, as set out above, seeks development that respects local character and distinctiveness.

Living conditions

15. None of the side boundary fencing at No 6 has been increased in height. The fencing that has been extended in height is positioned a reasonable distance from the windows of neighbouring dwellings, at the far end of gardens.
16. Due to the position and height of the fence, which extends across the full width of the rear boundary of No 55, the evidence before me indicates that it appears prominent when viewed from within the conservatory and rear garden of No 55. There is inevitably a greater sense of enclosure for users of this rear garden as a result of the increased height and width of the fence. Nevertheless, the fence is not of such a height or extent to be unduly materially imposing or oppressive to occupants of No 55 or unacceptably harm the outlook for those occupants. This is because of the position of the fence to the north of No 55, the distance from the conservatory and other windows at the rear of the property and because the side boundaries to the garden are lower, allowing open views to remain towards the east and west.
17. The fence extends across only part of the rear garden boundary of No 57. While it is higher than the remaining fence surrounding the rear garden of No 57, given the distance from rear-facing windows in this property, it does not appear overbearing or result in an unacceptable sense of enclosure either from within the property or the garden.
18. In terms of outlook from other surrounding gardens and ground floor windows at the rear of the neighbouring properties along Armscot Place and Hillfoot Avenue, only the upper part of the fence is visible. These properties have their own fenced enclosures. Given the modest increase in height of the fence, the distance to these properties and the remaining outlook available to residents, I do not consider the fence is overbearing or that the outlook from the neighbouring rear windows or rear garden areas of these properties is materially harmed.
19. For the reasons given above, I conclude on this main issue that there is no material harm to the living conditions of neighbouring residents, with particular regard to outlook. There is no conflict with Policy H7 a) or d) of the LLP which together state that, within the Primary Residential Areas, planning permission will be granted for, amongst other things, new housing development or other forms of development provided the residential character of the area and living conditions of

existing residents is protected, or that there is no adverse impact on residential amenity.

Other Matters

20. Representations were made to the effect that the appellant's human rights under Article 8 of the First Protocol, as set out in the Human Rights Act 1998 and Article 3(1) of the United Nations Convention on the Rights of the Child are a material consideration in this case. Since I have decided to allow the appeal and grant full planning permission for the development, there will be no interference with these rights.
21. I have also had due regard to the Public Sector Equality Duty (PSED) set out under s149 of the Equality Act 2010 (EA10) in relation to occupants of the appeal property who share a protected characteristic for the purposes of the PSED. As I am allowing the appeal the proposed development would be consistent with the three aims of the PSED to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the EA10; advance equality of opportunity between persons who share a relevant protected characteristic and do not share it; and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
22. I note comments from local residents that there are no security or privacy concerns in the area that necessitate the height of fence erected at No 6. Even if I were to agree in this regard, these matters have not been determinative in my consideration of the appeal.
23. Matters relating to the ownership of the fence or its maintenance are separate to and do not ultimately influence the assessment of the planning merits of the development.

Conditions

24. The Council has indicated the conditions it considers necessary in their Appeal Questionnaire which I have considered against the tests of paragraph 56 of the Framework and advice provided in Planning Practice Guidance. A condition in respect of external finishes is not necessary since the fencing has already been erected. A condition specifying the approved plans is necessary in the interests of certainty.

Conclusion

25. For the reasons given above, I conclude that the appeal should be allowed.

A Veevers

INSPECTOR